



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210325-0071]

RTID 0648-XB612

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2021 Closure of the Atlantic Herring Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; fishery closure.

SUMMARY: NMFS is closing the Atlantic herring fishery and implementing a 2,000-lb (907.2-kg) possession limit for herring in all Herring Management Areas. This is required because NMFS projects that herring catch will reach 95 percent of the annual catch limit before the end of the fishing year. This action is intended to prevent overharvest of herring, which would result in additional catch limit reductions in a subsequent year.

DATES: Effective 00:01 hr local time, November 25, 2021, through December 31, 2021.

FOR FURTHER INFORMATION CONTACT: Maria Fenton, Fishery Management Specialist, (978) 281-9196.

SUPPLEMENTARY INFORMATION: The Regional Administrator of the Greater Atlantic Regional Office monitors Atlantic herring fishery catch based on vessel and dealer reports, state data, and other available information. Regulations at 50 CFR 648.201(a)(1)(ii) require that we close the herring fishery and implement a 2,000-lb (907.2-kg) possession limit for herring beginning on the date that catch is projected to

reach 95 percent of the annual catch limit (ACL).

Based on vessel reports, dealer reports, and other available information, the Regional Administrator projects that the herring fleet has caught 95 percent of the herring ACL by November 23, 2021. Therefore, effective 00:01 hr local time November 25, 2021, through December 31, 2021, a person may not attempt or do any of the following: Fish for; possess; transfer; purchase; receive; land; or sell more than 2,000 lb (907.2-kg) of herring per trip or more than once per calendar day.

Vessels that enter port before 00:01 hr local time on November 25, 2021, may land and sell more than 2,000 lb (907.2 kg) of herring from that trip, provided that catch is landed in accordance with state management measures and the herring were not caught in a Management Area already subject to a 2,000-lb (907.2-kg) possession limit.

Also effective 00:01 hr local time, November 25, 2021, through 24:00 hr local time, December 31, federally permitted dealers may not attempt or do any of the following: Purchase; receive; possess; have custody or control of; sell; barter; trade; or transfer more than 2,000 lb (907.2 kg) of herring per trip or calendar day from a vessel, unless it is from a vessel that enters port before 00:01 hr local time on November 25, 2021, catch is landed in accordance with state management measures, and the herring were not caught in a Management Area already subject to a 2,000-lb (907.2-kg) possession limit.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(3)(B) to waive prior notice and the opportunity for public comment because it is unnecessary, contrary to the public interest, and impracticable. Ample prior notice and opportunity for public comment on this action has been provided for the required implementation of this action. The

requirement to implement this fishery closure was developed by the New England Fishery Management Council using public meetings that invited public comment on the measures when they were developed and considered along with alternatives. Further, the regulations requiring NMFS to implement this fishery closure also were subject to public notice and opportunity to comment. Herring fishing industry participants monitor catch closely and anticipate a potential fishery closure as the catch total approaches the ACL. The regulation provides NMFS with no discretion and is designed for implementation as quickly as possible to prevent catch from exceeding limits designed to prevent overfishing while allowing the fishery to achieve optimum yield.

The 2021 Atlantic herring fishing year began on January 1, 2021. Data indicating that the Atlantic herring fleet will have landed at least 95 percent of the 2021 ACL only recently became available. High-volume catch and landings in this fishery can increase total catch relative to the ACL quickly, especially in this fishing year where catch limits are unusually low. If implementation of this fishery closure is delayed to solicit prior public comment, the 2021 herring ACL will likely be further exceeded; thereby undermining the conservation objectives of the Atlantic Herring Fishery Management Plan (FMP). When the ACL is exceeded, the excess must be deducted from a future ACL and reduces future fishing opportunities. The public expects these fishery closure actions to occur in a timely way consistent with the FMP's objectives. For the reasons stated above, NMFS also finds good cause to waive the 30-day delayed effectiveness in accordance with 5 U.S.C 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 24, 2021.

Ngagne Jafnar Gueye,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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